

## § 42.4

## 37 CFR Ch. I (7–1–15 Edition)

with any time period required by statute.

### § 42.4 Notice of trial.

(a) *Institution of trial.* The Board institutes the trial on behalf of the Director.

(b) Notice of a trial will be sent to every party to the proceeding. The entry of the notice institutes the trial.

(c) The Board may authorize additional modes of notice, including:

(1) Sending notice to another address associated with the party, or

(2) Publishing the notice in the Official Gazette of the United States Patent and Trademark Office or the FEDERAL REGISTER.

### § 42.5 Conduct of the proceeding.

(a) The Board may determine a proper course of conduct in a proceeding for any situation not specifically covered by this part and may enter non-final orders to administer the proceeding.

(b) The Board may waive or suspend a requirement of parts 1, 41, and 42 and may place conditions on the waiver or suspension.

(c) *Times.* (1) *Setting times.* The Board may set times by order. Times set by rule are default and may be modified by order. Any modification of times will take any applicable statutory pendency goal into account.

(2) *Extension of time.* A request for an extension of time must be supported by a showing of good cause.

(3) *Late action.* A late action will be excused on a showing of good cause or upon a Board decision that consideration on the merits would be in the interests of justice.

(d) *Ex parte communications.* Communication regarding a specific proceeding with a Board member defined in 35 U.S.C. 6(a) is not permitted unless both parties have an opportunity to be involved in the communication.

### § 42.6 Filing of documents, including exhibits; service.

(a) *General format requirements.* (1) Page size must be 8½ inch × 11 inch except in the case of exhibits that require a larger size in order to preserve details of the original.

(2) In documents, including affidavits, created for the proceeding:

(i) Markings must be in black or must otherwise provide an equivalent dark, high-contrast image;

(ii) 14-point, Times New Roman proportional font, with normal spacing, must be used;

(iii) Double spacing must be used except in claim charts, headings, tables of contents, tables of authorities, indices, signature blocks, and certificates of service. Block quotations may be 1.5 spaced, but must be indented from both the left and the right margins; and

(iv) Margins must be at least 2.5 centimeters (1 inch) on all sides.

(3) *Incorporation by reference; combined documents.* Arguments must not be incorporated by reference from one document into another document. Combined motions, oppositions, replies, or other combined documents are not permitted.

(4) *Signature; identification.* Documents must be signed in accordance with §§ 1.33 and 11.18(a) of this title, and should be identified by the trial number (where known).

(b) *Modes of filing.* (1) *Electronic filing.* Unless otherwise authorized, submissions are to be made to the Board electronically via the Internet according to the parameters established by the Board and published on the Web site of the Office.

(2)(i) *Filing by means other than electronic filing.* A document filed by means other than electronic filing must:

(A) Be accompanied by a motion requesting acceptance of the submission; and

(B) Identify a date of transmission where a party seeks a filing date other than the date of receipt at the Board.

(ii) Mailed correspondence shall be sent to: Mail Stop PATENT BOARD, Patent Trial and Appeal Board, United States Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313–1450.

(c) *Exhibits.* Each exhibit must be filed with the first document in which it is cited except as the Board may otherwise order.

(d) *Previously filed paper.* A document already in the record of the proceeding must not be filed again, not even as an exhibit or an appendix, without express Board authorization.